UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1992/SR.24
3 February 1992

ENGLISH
Original: FRENCH

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Fourty-fourth sesstion

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 August 1992, at 10 a.m.

Chairman: Mr. SACHAR
later: Mr. CHERNICHENKO
later: Mr. ALFONSO MARTINEZ

CONTENTS

The New International Economic Order and the promotion of human rights

The realization of economic, social and cultural rights

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GE.92-13421 (E)

The meeting was called to order at 10.20 a.m.

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (continued) (E/CN.4/Sub.2/1992/15, 16, 41, 44 and 50; E/CN.4/Sub.2/1992/WP.1; E/CN.4/Sub.2/NGO/2, 3, 5, 7 and 15; E/CN.4/Sub.2/1991/17; E/CN.4/1992/NGO/33)

1. Mr. TURK, introducing his final report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/16), said it would be difficult to strengthen those rights because, according to the latest report of the World Bank, the number of poor in the world at the end of the century would probably be higher than in 1985. That situation would certainly have an adverse effect on the overall enjoyment of human rights in many countries.

2. The question was whether the problem of development could be properly addressed in the context of human rights. Although it was true that the greater part of the problem of development did not involve human rights, it was nevertheless possible and perhaps necessary, to contribute to the solution of some of the main problems on the basis of universally accepted human rights standards.

3. Human development and the advent of a just social order implied the availability not only of a great deal of technical knowledge but above all - and what should never be forgotten - sufficient economic power and genuine political will. And it was precisely in order to determine what was "just" that human rights standards were indispensable. In that context, economic, social and cultural rights would play a crucial role provided that they were defined with sufficient precision.

4. Recent years had witnessed the collapse of a model of development based on the idea of central planning which, it was said, would lead automatically to the realization of economic, social and cultural rights. Now, another myth was being developed according to which market forces would resolve all developmental concerns and lead to the realization of those rights. The countries of central and eastern Europe, however, were increasingly aware that the transition to a market economy would not be easy, that it would pose social problems, and that subsidies would have to be targeted and appropriate social safety nets provided. It was human rights standards that would make it possible to judge whether the measures promoting transition were acceptable. Moreover, it should be borne in mind that the concept of the interdependence and indivisibility of human rights - whether civil and political, economic, social or cultural - formed the cornerstone of United Nations doctrine in that respect.

5. In his first progress report, he had been concerned mainly with the development of social and economic indicators designed to measure progress in the realization of economic, social and cultural rights. He was therefore glad that the Commission on Human Rights had accepted some of the ideas expressed in that report and welcomed the forthcoming seminar of experts who would develop a set of indicators to assist human rights bodies in assessing progress in the realization of those rights. In that first report, he had also discussed the issue of extreme poverty and social exclusion which, in his opinion, merited a specialized study.

6. His second progress report had focused on the effect of structural adjustments on economic, social and cultural rights, in particular on those of the social groups most directly affected by adjustment measures. The report had also dealt with the evolution of policies pursued by international financial institutions, notably the World Bank and IMF.

7. His final report summarized the main conclusions he had reached during the four years of his consideration of economic, social and cultural rights. Chapter 2 dealt with barriers to the realization of those rights, and in chapter 3 the role of international financial institutions was considered in the light of the most recent documents issued by those institutions. In one of those documents the World Bank referred to a two-part policy approach that could greatly contribute to the realization of economic, social and cultural rights. The first part called for broad-based economic growth, and the second the provision of social services, especially in the fields of primary education, basic health care, family planning and nutrition to improve living conditions and to increase the capacity of the poor to respond to the income-earning opportunities offered by economic growth. Clearly, therefore, without economic growth, economic, social and cultural rights would never be realized.

8. In 1991, the World Bank had prepared an operational directive on poverty reduction and a "Poverty handbook". The former addressed the issue of the social costs of adjustment and specified that the adjustment programmes supported by the Bank must include measures to protect the most vulnerable segments of the population. That directive also called for specific support of poverty-reducing operations and dealt with the relationship of public expenditure to poverty levels as well as the development of poverty profiles and indicators. The Poverty handbook called for public expenditure reviews and poverty assessments, and in that regard it considered a number of important questions, such as whether social safety nets existed and, if so, in what form. The emphasis on those safety nets in strategies to reduce poverty represented considerable progress towards recognizing the importance of basic subsistence rights for all. According to the Handbook, the effectiveness of a safety net could be assessed basically by evaluating provisions for meeting essential food, health and shelter requirements, which were key components of economic, social and cultural rights. As for the practical implications of safety nets, the World Bank should try to ensure that the provisions adopted were comprehensive and sustainable, and that they were used as an additional instrument to uphold human development rather than as a substitute for it.

9. IMF placed more and more emphasis on "human capital" and on the social aspects of adjustment and stabilization programmes, of which the fiscal element was increasingly recognized but was difficult, for various reasons, to take formally into account in the Fund's programmes. From the standpoint of the exercise of economic, social and cultural rights, steps had to be taken to permit the formal inclusion of issues related to fiscal policies in the Fund's programmes. IMF was also increasingly interested in reducing military spending. That policy, which had ceased to be Utopian, had to be supported in order to make resources available for the strengthening of economic, social and cultural rights.

10. Chapter 4 of his final report dealt with the new approaches needed to help realize the rights under consideration, and in particular the role of local government, popular participation, the use of indicators to monitor progress, the setting of standards and the humanization of adjustment.

11. Lastly, in Chapter 5, he had proposed a number of recommendations to United Nations human rights bodies, States, international financial institutions and relevant non-governmental organizations. He drew the Sub-Commission's attention in particular to the recommendations in paragraph 206 concerning the appointment of special rapporteurs to study various aspects of economic, social and cultural rights, to paragraph 217 (i) on the development of guiding principles concerning structural adjustment and economic, social and cultural rights, and to paragraphs 238 to 243 which dealt with the strengthening of cooperation between United Nations human rights bodies on the one hand and the World Bank and IMF on the other.

12. Mr. Alfonso Martínez took the chair.

13. Mr. SACHAR, introducing the Working Paper on the right to adequate housing (E/CN.4/Sub.2/1992/15) that the Sub-Commission at its forty-third session had requested him to prepare, said that that right was a fundamental one which could not be considered independently of other human rights and which every democratic State should ensure was respected. Yet according to indicators developed by the United Nations Centre on Human Settlements, over 100 million persons lived in a state of absolute homelessness, and over 1 billion persons were housed in frightful conditions threatening their health, security and dignity. The most obvious causes of the current international housing crisis were 12 in number:

(a) The failure of government and development policies: in the United States, for example, less than 10 per cent of tenants were protected by some form of legislation forbidding eviction without just cause, and in the United Kingdom over 4 million homes were officially described as being unhygienic, damp, overcrowded or in need of major repairs;

(b) Housing discrimination, which was experienced above all by ethnic minorities, migrant workers, refugees, sexual minorities, the landless, indigenous communities, the unemployed, the elderly, the ill and former offenders;

(c) Environmental health, disasters and housing: according to WHO inadequate housing was invariably associated with higher mortality and morbidity rates;

(d) The withholding of critical information: the denial of the "right to know" could have dramatic consequences, as had been the case in Bhopal (India) where the inhabitants had been far from suspecting the risks to which they were exposed;

(e) Exploitation in the housing sphere: in many countries attempts had been made to combat that practice, particularly by limiting rent increases and providing security of tenure with protection against evictions and protection of privacy;

(f) Speculation and the commoditization of housing: when millions of persons had difficulty in meeting needs as critical as food and transport, it was misguided to continue to emphasize market solutions for housing problems;

(g) Forced evictions;

(h) Armed conflicts: the long-term housing crisis resulting from warfare merited special attention in subsequent reports;

(i) The criminalization of housing: governmental inability to ensure adequate housing for all forced people to turn to the "illegal" housing sector. Legal systems under which people could survive only by breaking the law evidently left much to be desired;

(j) Structural adjustment programmes and debt: structural adjustment programmes and falling into debt often had serious repercussions on living and housing conditions, as the Indian organization "National Campaign for Housing Rights" in particular had stressed in a recent study;

(k) Poverty and the deprivation of means: when life was an everyday struggle to earn enough money to feed one's family, the aspiration for a place to live in security and dignity remained a remote dream. It might then be asked whether it was morally sound that the enjoyment of human rights should depend on social status or income when such rights were supposed to derive from being human and not from financial resources;

(l) Homelessness, an established phenomenon: the homeless were victims of governmental inability to protect housing rights and of policies which benefited already privileged groups to the detriment of the less fortunate.

14. With regard to the substance and nature of the right to adequate housing, he noted that, according to the United Nations Global Strategy for Shelter to the year 2000, adequate housing meant "adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost".

15. As for the legal basis of the right to housing, that right expressly appeared in many texts, both national and international. A link also existed between the right to housing and other rights, in particular the right to privacy, the right to security of the person, the right to freedom of movement, the right to choose one's residence, the right to equality of treatment, the right to a life free of racial discrimination and the right to life itself. In that regard he observed that in India the right to privacy did not exist as such, but that the right to life and liberty was a recognized right which might be assumed to include it.

16. Among the treaty bodies, it was the Committee on Economic, Social and Cultural Rights that had done the most to promote and clarify the right to adequate housing, devoting a substantial part of the general discussion at its sessions to the subject, adopting at its sixth session General Comment No. 4 dealing specifically with that right, and in general applying methods of inquiry into how far the States parties applied that right.

17. It was important to clarify governmental obligations in respect of the right to housing; future reports on the question should deal with issues that provided such clarification and consider specific measures that States parties to the Covenant on Economic, Social and Cultural Rights could take in applying articles 2.1 and 11.1, the best way of setting forth the housing obligations of States and the external obligations of the States parties to the Covenant to the international community. The Committee on Economic, Social and Cultural Rights had recognized that the right to adequate housing could be violated, and that an eviction, for example, might constitute an act inconsistent with that right. The work of Mr. Türk (E/CN.4/Sub.2/1992/16) had helped to define the advantages and limitations of the indicators used to measure compliance with obligations. The poorer strata of the population were regularly omitted in the statistics of the countries of the North as well as the South. It would therefore be interesting to have a better knowledge of the currently available indicators reflecting housing rights, and to see whether a globally applicable composite indicator could be developed to provide an accurate measurement of progress and the fulfilment of obligations connected with housing rights, and whether other initiatives had been taken to develop new applicable indicators in housing rights. He was aware that his Working Paper could not answer everyone's questions, but awaited with interest the critical comments of the other members of the Sub-Commission.

18. The CHAIRMAN gave the floor to the Permanent Representative of the United States.

19. Mr. ABRAM (Permanent Representative of the United States of America to the United Nations Office in Geneva), raising once again before the Sub-Commission the question of economic, social and cultural rights, said that although he still thought their realization was possible only after civil and political rights had been fully realized, he had nevertheless given much thought to those concepts, in particular during an exchange of correspondence with the British philosopher Sir Isaiah Berlin, who was much interested in the question of rights and freedoms. He wished to share his thoughts and the doubts that accompanied them.

20. To illustrate his point, he used the example of a bear which, like man, had certain needs: he had to eat and drink, he had to sleep, and he needed a place to stay. There the similarity ceased, for man, unlike the bear, could not be contented to satisfy those economic needs alone, endowed as he was with a mind, a conscience, a capacity for feeling. The desire to express himself distinguished him from the bear, and it was from that desire that proceeded the idea of human rights - which were civil and political rights. Those inalienable human rights were the indispensable condition of a society that called itself free; once those rights had been achieved, economic and social needs, which some called "rights", followed naturally. He was convinced that there was a connection between liberty and economic progress. Liberty gave rise to creativity and the spirit of enterprise which, in their turn, made economic progress possible, whereas repression often resulted in stagnation. South and North Korea or West and East Germany (before unification) were telling examples.

21. He paid tribute to Mr. Antoine Blanca, Under-Secretary-General for Human Rights, for his constructive promotion of the linkage between human rights,

democracy and development. In that connection it was important to know what was actually meant by the term "right", and he observed that there was very often a tendency to claim as a right something that was in one's interest. That idea, if transposed to the United Nations, was not without danger, for it would open the way for the proliferation of new "rights", to the point where the very concept of "rights" might become highly diluted.

22. He noted the tremendous progress that had been made in the field of human rights during the past half century and the importance of the Universal Declaration of Human Rights, and emphasized that most States had undertaken to implement the International Covenant on Civil and Political Rights which, he was proud to say, the United States had ratified in 1992. The standards of conduct for the protection and promotion of human rights as envisaged by the United Nations Charter had been embodied in international instruments, which the nations of the world should now try to implement. He welcomed the fact that fewer and fewer countries claimed that human rights violations committed on their territory were exclusively internal matters; that was indeed a recognition of the universality of human rights. He agreed with Mr. Blanca that an absence of economic development should not be used as a pretext to justify violations of those rights. The end of the cold war and the elimination of tension between East and West were factors that augured well for the observance of human rights. That change in itself should enable peoples to understand each other better and nations to join in achieving United Nations goals, namely, collective security and the universal observance of human rights.

23. It would be tragic if all those accomplishments became unravelled. He had represented his country at the last Conference on Human Rights which had been held at Tehran 25 years earlier and which had been perhaps slightly too much of a talkfest. He had greater hopes for the forthcoming Conference which offered an opportunity to celebrate the human rights achievements of the twentieth century. That Conference should also be the occasion for devising methods to ensure even broader implementation of the covenants and standards already adopted.

24. Reverting to the idea that care must be taken not to dilute the concept of rights by their endless proliferation because, for example, if a right to development was added, the significance of the right to free speech would be correspondingly diminished. Similarly, if rights were "particularized" and regionalized to accommodate various cultural, ethnic or religious groups, the universality of human rights would be destroyed and the United Nations might well become divided nations.

25. Lastly, he recalled that the Human Rights Committee had met the previous week in special session to deplore the atrocities committed in former Yugoslavia, thereby demonstrating that common ground existed on what constituted fundamental rights and freedoms. The World Conference would offer an opportunity to consolidate the human rights achievements of the United Nations and to honour the Universal Declaration of Human Rights, which reflected universal and timeless values.

26. Mr. EIDE had some comments to make on Mr. Abram's statement. In the first place he was not quite sure he understood what he had meant by "new"

rights that should not be added to those already recognized: the Universal Declaration of Human Rights and the Covenants specifically mentioned economic rights, which were therefore in no sense new. In 1947 when the Universal Declaration had been drawn up, the head of the United States delegation, who had chaired the discussions, had been entirely in favour of the idea of including economic rights, going so far as to state that a needy man was not a free man. He fully endorsed that idea.

27. While in many respects sharing Mr. Abram's point of view, and particularly that the absence of development could not be used to justify violations of human rights, he considered that it was just as important to recognize that free enterprise could not be used to justify the denial of economic rights. Although free enterprise had its virtues and could unleash energies, it could not resolve all problems, for some people knew only too well how to use their power to serve their own interests, without bothering about others who, being weaker, might find themselves without a roof over their heads, with nothing to eat, without anything, even in countries where free enterprise reigned supreme. Consequently, democratic societies had to know how to strike the necessary balance between personal freedom and solidarity with one and all. Rights and freedoms formed a whole without being ranked, and economic and social rights could not be ignored with impunity.

28. Mr. HATANO congratulated Mr. Türk on the remarkable job he had done in drafting his final report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/16), and said he had been very impressed by his academic and objective analysis. Some sections had been particularly stimulating, such as "Misconceptions of the State", "Economic growth as a panacea", "Misguided visions of development" and "Creating standards or creating space?". Referring to paragraph 78 which dealt with income distribution, he said he shared Mr. Türk's frustration concerning the inequity of that distribution but wondered what an ideal income distribution would be and whether it was anything more than an illusion. At what point was income justice achieved? When the richest 20 per cent possessed less than 40 per cent of the total wealth? When the poorest 20 per cent were guaranteed more than 10 per cent of GNP? He also wondered what was the nature of the wealth possessed by the richest 20 per cent; a distinction had to be made between inherited wealth, such as landed wealth, and wealth that was produced by physical or intellectual effort. The social implications of those two forms of wealth would be very different, and the greater the opportunities the poor had to become rich, the easier it would be to accept the idea that a larger proportion of income should go to the richest.

29. Mr. VERGNE SABOIA, referring to Mr. Abram's statement, said that he fully endorsed Mr. Eide's observation that economic, social and cultural rights were in no sense new rights but constituted part of the very core of the human rights standards developed by the United Nations. However, he agreed with Mr. Abram that cultural or other particularisms should not detract from the universal character of human rights.

30. In general, he considered that the discussion on the various categories of human rights had been obscured by the ideological dispute that had divided the world for several decades, as each side had tried to promote, for political purposes, one aspect of human rights to the detriment of the other.

He paid tribute to Mr. Türk, the Special Rapporteur, who had stressed the need to consider human rights as an interdependent whole, articulated around the concept of human dignity. If that concept was to be given real meaning, each person should be able to enjoy not only his civil and political rights, but also his economic, social and cultural rights, and the realization of the latter implied a wholehearted commitment by the international community - by States and individuals alike.

31. Yet the vast mass of humanity was deprived of its dignity, living in conditions that were a negation of economic, social and cultural rights. Although it was generally accepted that democracy constituted the political system most suited to the realization of human rights, economic, social and cultural rights had obviously lagged behind and had to be given priority. Governments and international financial institutions were advocating structural adjustment as an indispensable condition for recovery and economic stability. Although that was partly true, structural adjustment could not be promoted at the cost of further eroding the living conditions of those who already existed below minimum standards. Such measures could not succeed if the most deprived and vulnerable sectors of society were disregarded. The international financial institutions must therefore work more closely with human rights bodies in order to preserve human dignity and include social criteria in their structural adjustment programmes.

32. The conditionalities imposed by debt servicing requirements also reduced the resources that developing countries could devote to social programmes, and limited the ability of States to control their own economic process. That being so, the least developed countries were no longer able to determine their own priorities and exercise an essential aspect of their right to self-determination. Indeed, it was pointless to promote the exercise of political rights when decisions affecting the most fundamental interests of peoples were taken out of their hands.

33. The inequality of income distribution was another major obstacle to the enjoyment of economic, social and cultural rights. The gap between the poor and the rich was continuing to widen both within and between States. Some population groups lived below the poverty line even in wealthy countries. The shrinking role of the State, particularly in economic matters, had a negative impact on the exercise of those rights in many countries, and especially the developing countries, and the State could not therefore renounce its central role in promoting balanced, socially equitable and sustainable development. The Special Rapporteur had, in his conclusion, stressed the need to adopt a unified, compassionate and people-based approach to the exercise of economic, social and cultural rights and also the paradox that the human, technological and resource capacities available had never been more capable of satisfying those rights (para. 134). The Special Rapporteur had also made various recommendations concerning the action that should be taken by human rights bodies and other international institutions as a means of attaining the desired goal and in particular he endorsed the suggestion that the Sub-Commission should continue to appoint special rapporteurs to study various aspects of economic, social and cultural rights and that the Commission on Human Rights should also consider appointing thematic rapporteurs on that category of rights. The World Conference on Human Rights should pay due attention to the question of the enforcement of those rights, including the

right to development, and to ways of enhancing international cooperation with a view to the attainment of the lofty goals set forth in the Universal Declaration of Human Rights.

34. The Working Paper on the right to adequate housing submitted by Mr. Sachar (E/CN.4/Sub.2/1992/15) was a good example of how an integrated and global approach to human rights problems could shed light on issues of great importance to human beings. Mr. Sachar revealed the relationship between access to adequate housing and the enjoyment of various other economic and social rights, and clarified the causes of the international housing crisis and the legal basis of the right to housing. Lastly, he had identified many areas where further effort was needed and that, in his view, justified the appointment of a special rapporteur.

35. Mrs. CHAVEZ said that the question of income distribution dealt with in Chapter II, Section C, of Mr. Türk's report (E/CN.4/Sub 2/1992/16) lay at the heart of the political debate in the United States, especially in the current election year. In that respect she drew Mr. Türk's attention to a study carried out by the Urban Institute, a public research foundation of liberal reputation, on income distribution within the United States during the previous 20 years which revealed an astonishing change in that 20 per cent of Americans who had been at the bottom of the income ladder were currently at the top, whereas some of the most privileged had dropped back into a lower category. That proved, contrary to what was often thought to be the case, that income distribution was never fixed once and for all, and that in the United States, in any event, it was extremely mobile. Nor should it be forgotten that what mattered was to ensure decent living conditions for all members of society, and that a society in which income distribution was unequal but where the basic needs of each person were satisfied was preferable to a society in which income was evenly distributed in the sense that everyone was equally poor. It was also erroneous to believe that State intervention to redistribute national wealth would ensure a better standard of living for all, for experience had shown that in many countries such a policy had only impoverished the population even further.

36. However, she agreed with Mr. Eide that the free market was not a panacea for all economic and social ills, and in that regard recalled that Adam Smith, author of An Inquiry into the Nature and the Causes of the Wealth of Nations and originator of the idea of the free market, had also written books on ethical questions. Capitalism had to be tempered by charity. The wealthy countries should not lose sight of their responsibility to those who were less advantaged and less fortunate than they.

37. Mrs. FORERO UCROS noted that although democracy was an indispensable factor in just and equitable development, economic development and the participation of all social groups in its benefits were also essential elements of democracy. A democracy that failed to respect fundamental freedoms was certainly no democracy, but a democracy that did nothing to ensure the realization of economic, social and cultural rights was a fragile democracy, which in fact was a democracy in name only. Democracy therefore had to be strengthened in the world by setting up cooperation machinery and drawing up policies to promote the development of the third world countries.

38. A large number of countries, in particular the majority of Latin American countries, were in favour of opening up and internationalizing their economies and launching an integration process that would enable them to expand their markets. Yet they had adopted a policy of structural adjustment and had reduced the State's role in the economy, which had had the effect of further aggravating the situation of the most disadvantaged segments of the population. As the Special Rapporteur had suggested, States should change the structure of their government expenditure by devoting part of their national income to priority human needs, take specific measures to reduce income inequality, promote the realization of economic, social and cultural rights and eliminate poverty, and ensure that socially disadvantaged groups did not suffer unduly from economic adjustment measures.

39. At the global level, the international community had to wake up to the need to help developing countries by eliminating trade restrictions that jeopardized the economic opening-up and democratization processes that were emerging in those countries. International financial institutions should, in the framework of adjustment policies, pay particular attention to means of reducing income distribution inequalities between countries; in that regard she supported the proposal that IMF, the World Bank and the Commission on Human Rights might together organize an expert seminar on the role of financial institutions in the realization of economic, social and cultural rights. It was equally vital to understand that the establishment and maintenance of democracy in the world required States as well as financial institutions to apply policies that took account of social problems. Democracy was re-emerging with great difficulty almost everywhere in the world, but it could not become firmly rooted without social justice and without development. That unadorned truth could not be ignored in the context of the realization of interdependent human rights forming an indivisible whole. The question should be considered by the World Conference on Human Rights from the general standpoint adopted by the Special Rapporteur.

40. Mr. Chernichenko took the chair.

41. Mr. GUISSÉ endorsed Mr. Türk's thinking on the strengthening of relations between the World Bank and IMF on the one hand and United Nations human rights bodies and the debt-burdened countries of the third world on the other. The structural adjustment policies applied in those countries had often had the effect of aggravating the situation of the people and impairing the economic, social and cultural rights of all. External debt was often repaid at the cost of failing to satisfy immediate human needs, and ways of ensuring the realization of those rights should therefore be considered. The economic integration of those countries, implying the pooling and sound management of all the resources available to the States concerned, might be a solution; the experience acquired by European countries within EEC might be useful in that respect.

42. Reverting to the statement by the United States representative, he emphasized, as Mr. Eide had already done, that economic, social and cultural rights, just like civil and political rights, were inherent in the individual. The fact that those two categories of rights were dealt with in two different Covenants did not mean that a hierarchy had to be established between them. Two instruments had been drafted simply in order to devise different means of

implementing those rights. Economic, social and cultural rights, needless to say, were just as - if not more - important than civil and political rights, and their enjoyment had to be guaranteed in the same way. In conclusion he repeated his proposal that the question of economic integration as a means of realizing economic, social and cultural rights should be looked into.

43. Mr. SACHAR said it was unfortunate that the United States representative had seen fit to reopen the debate on which category of rights was the more important. There was admittedly a link between the exercise of political rights and the claim to economic rights, but Mr. Abram's approach reminded him of a remark by Anatole France, who had one day said sarcastically that both rich and poor had the same right to sleep under bridges. Man was without any doubt a thinking animal, but how could he think if he was deprived of the basic means of subsistence, in other words, if he was denied his economic rights? If Mr. Abram's views won the day, the rich and developed countries would be free, in the name of the market economy, to exploit the less advanced countries. Human rights could have meaning only in the context of a world order based on fraternity and compassion, a world order with a human face. The problem of poverty and unequal income distribution in a society could not be neglected on the pretext that the right to development was not a human right. Observance of their civil and political rights was not enough to ensure peoples' happiness. The Universal Declaration of Human Rights contained not only civil and political rights such as the right to life (Art. 3) or to freedom of thought (Art. 18), but also economic and social rights such as the right to work, to just and satisfactory working conditions and to protection against unemployment (Art. 23) as well as the right to an adequate standard of living, including housing (Art. 25). He failed to understand those who wished to enclose civil and political rights in a sealed compartment excluding all economic, social and cultural rights and in particular the right to development, which was a fundamental human right just like all the others.

44. Mr. MAXIM said he regretted that Mr. Türk's excellent work on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/SR.16) constituted a final report for, in his view, the topic should be a permanent item on the Sub-Commission's agenda. It was beyond question that all human rights were indivisible and that any attempt to establish a hierarchy between them was pointless. It was, of course, easier to proclaim rights than to ensure their exercise, but a democracy based on poverty was not a true democracy. The fact that poverty was increasing steadily throughout the world boded ill for democracy because it was in poor countries that totalitarian regimes emerged. In Romania, for example, the efforts made since the 1989 revolution to establish a State based on the rule of law had encountered major economic and social difficulties, so that the Romanian people, who failed to see any improvement in their condition, were beginning to shed their illusions and becoming increasingly reluctant to participate in the establishment of that State. They were also being misled into believing that international aid would resolve all their problems, whereas it was obvious that there was no substitute for the national effort that was required. It was not like that that the living conditions of peoples at present experiencing difficulties could be improved. Social measures were indispensable and IMF and all the other international financial institutions should attach greater importance in their programmes to the social aspects of

adjustment. In conclusion he restated the importance of an overall human rights approach and stressed the need therefore to retain that question on the Sub-Commission's agenda.

45. Mr. Alfonso Martínez took the chair.

46. Mr. BOSSUYT could not associate himself with the general trend of the discussion which for some time had repudiated any difference between economic, social and cultural rights and civil and political rights, for fear of establishing a hierarchy between those two categories of rights. He too considered that neither of the two categories took precedence over the other, but refused to treat them as an indivisible whole, for legally they were very different; indeed, different legal mechanisms were used to protect them.

47. In one case, that of civil and political rights, the duty of the State was essentially one of abstention; it was forbidden arbitrarily to deprive anyone of life, fundamental freedoms and other recognized rights - a right whose observance a good legal system should be able to ensure. In the other case, that of economic, social and cultural rights, the State must, on the contrary, make an effort to act where necessary. It did so, for example, by paying benefits, which were sometimes considerable and which inevitably depended on its resources and forced it to make choices. It was then the legislature and not the judiciary that took action and ensured the exercise of rights such as the right to adequate housing, the right to health and the right to education.

48. That was the point at which the question of different legal means corresponding to each category of rights become relevant. Indeed, when, for example, international law norms were incorporated into domestic law and took precedence over it, the commitment assumed by the State had broad implications, for the national judge could refer directly to international standards, and do so under the eye of an international judge. It was hard to see how such a system could work in the case of economic, social and cultural rights, for it was not up to judges - international or national - to define adequate housing and the price at which it should be made available to all. Instead of defining the economic, social and cultural rights of individuals, it was therefore necessary to specify the obligations of States in that respect. That could be done not by legal bodies but by legislative bodies, at the national and, if necessary, international level. The protection of those rights, in fact, depended on a sound economic and social policy.

49. Mrs. DURAN (International Monetary Fund) observed that the common goal, namely, the achievement of lasting growth so as to improve living standards, implied decisions that were difficult to implement, and basic misunderstandings arose from the fact that the desire to find easier solutions had clashed with harsh reality. In his final report, the Special Rapporteur had based some of his arguments on such misunderstandings, which had to be dispelled. It was no coincidence that so many countries recognized that their economy was beset by structural impediments that held back the kind of growth desired, namely, quality growth, which was based on the output of goods and services that made for a better quality of life. That growth at once satisfied basic needs and provided the extra margin making it possible to exceed the mere subsistence level. It was thus not sufficient that the

national balance sheet should be positive; what mattered was the structure of that growth. When it was not adequate, it had to be adjusted. Many rich countries virtually ignored their own failings in that sphere; that meant only that they had more leeway for impoverishment. Experience showed that to follow their example would lead to a waste of resources and missed opportunities that were difficult to recapture. That was why IMF considered it very disturbing that the Special Rapporteur should have advocated exploring viable alternatives to adjustment. Adjustment was not optional. It might either be forced or haphazard, or an optimal adjustment strategy might be adopted, but in any event it was indispensable.

50. That was demonstrated by the difficult economic period at the end of the 1970s and the beginning of the 1980s. The deterioration in the economic performance of many countries in 1980 had been caused by the inflationary excesses, external and internal, of the preceding period. In many countries, structural rigidities and inappropriate economic policies had added to the problems created by the unfavourable external environment, and alternative solutions to adjustment had often been sought. For example, many countries had tried to stimulate domestic demand by increasing government expenditure through heavy external borrowing while revenues stagnated or fell, and by tightening import restrictions when the allocation of resources was already inefficient; in short, they had exacerbated the results of structural rigidities instead of moving to correct them. Fiscal imbalances had widened, inflation had accelerated, growth had faltered and external debt had soared. Nothing of the kind had happened in countries which had preferred to encourage savings and investment to the accumulation of a massive debt, such as in several Asian countries which, having adopted a sustained adjustment policy, had been able to maintain their growth rate at between 7 and 9 per cent, nor in many countries elsewhere in the world which had adopted reforms in recent years.

51. Observers other than those cited by the Special Rapporteur had confirmed that orderly adjustment did not necessarily increase poverty and that the more timely it was, the less painful. That fact was obscured by the tendency to attribute to adjustment policies the visible economic difficulties still experienced by countries that implemented them. It was often forgotten that it was more costly, in particular to the most vulnerable segments of the population, to apply policies haphazardly than to undergo the effects of an appropriate strategy. In the case of inflation, for example, it was easy to see that by reducing the waste of scarce resources, visible "withdrawal effects" would be produced. However, those might be corrected, in particular by targeting income. What was absolutely certain was that a policy of doing nothing would lead to the spiralling of inflation that would hit the poor the hardest. Similarly, as she had said the previous year, once it was clear that the purpose of structural adjustment was essentially the removal of impediments to the most precious resource, namely, human ingenuity, it was impossible not to subscribe to the idea of an orderly structural adjustment. The recurring complaint was that structural adjustment strategies, and therefore IMF-supported programmes, were exactly the same from one country to another reflected a superficial view of those strategies and a misunderstanding of the reasons underlying them. Of course, when the mistakes made in different countries were practically the same, the remedies would seem similar in their

general structure. In detail, however, those policies were in fact quite diverse, for they took into account both the adjustment needs and the economic and social endowments of each country.

52. She did not deny that mistakes had been made, but they could be corrected by experience. For example, greater emphasis was now being placed on the social aspects of adjustment and more and more often affordable safety nets were being provided. However, she noted that such safety nets were not devised to provide permanent support. In addition, like government expenditure as a whole, they had to be affordable. Badly managed government expenditures, with excessive military spending or overprotected vested interests, stunted growth in areas that improved the quality of life. That was why the pruning of government expenditures was often part of the adjustment process. Such pruning had to be accompanied by a change in resource transfer mechanisms, so that such transfers could be better targeted, and so that important social services were not affected by the reduction of government expenditures and so that the resources thus reduced were used more efficiently. In Chile - contrary to what the Special Rapporteur had said - there had been a measurable improvement in nutritional standards despite a reduction in health expenditures. Some degree of expenditure redistribution was generally built into adjustment packages.

53. In her view, the Fund did not have a central role to play in income redistribution, not least because that question called for sovereign decisions by Governments. It was up to them to look beyond the adjustment programme when they tried to ensure a more equitable distribution of resources. In any case it was very difficult to decide how far countries could be assisted in tackling their social concerns without imposing outside standards on them. That had been demonstrated by the Special Rapporteur when, on one hand, he had stressed the loss of sovereignty through policies for closer integration into the international community and, on the other, he had worried about marginalization and asked outside agencies to develop and impose equity standards. The balance between the measures required to achieve the essential goals of an adjustment programme and those desirable to continue beyond was a good indicator of the appropriate balance for policy advice as well. In that context, she recalled the distinction to be made between the components of an IMF-advised policy package and performance criteria. The latter were only milestones serving to measure the road travelled towards a better balance; they could not describe the general condition of the road. IMF advice covered many aspects of policy within the framework of which specific progress could be recorded, for example, limitation of growth in employment at non-priority ministries and the restructuring of subsidies on items such as food and housing so that those subsidies benefited the most needy.

54. The Special Rapporteur had made recommendations concerning policy advice and programme formulation, some of which had already been applied in strategies developed by member countries in collaboration with the IMF and the World Bank. Other United Nations agencies also had a role to play, but it was for the countries concerned to ask them for their assistance in giving their adjustment programmes a social and sectoral dimension. Lastly, she stressed that if official development assistance, which was an essential additive to domestic saving in the development process, was more generous, the IMF would be better able to help countries undertake their structural adjustment. The

outlook for peace undoubtedly helped to free the necessary resources and, in that field as well, United Nations agencies could concert their efforts to ensure that the poorest countries could see their lot improved.

55. Mrs. SORSA (World Bank) said she was gratified by the World Bank's collaboration with the Special Rapporteur which had been fruitful even if it had not eliminated some misconceptions about the Bank's policies and even if some differences of view persisted on how to reach their common goal, namely, the reduction of poverty in the world. Referring to the question of development, she said that, as a development agency seeking to alleviate poverty, the World Bank was aware of the sad plight of millions of inhabitants of the planet threatened or stricken by starvation, even if was not within its mandate to relieve suffering due to war and repression. In her view that was an area where the protection of human rights and minorities was directly related to development, and only when both were assured could there be any hope of avoiding misgovernment and the bloodshed that caused the most acute misery.

56. However, she was not as pessimistic as the special rapporteur. Progress had been made - for instance per capita incomes in the poorest countries had doubled over the past 25 years and infant mortality rates had almost been halved. The World Bank believed that economic, social and cultural progress was brought about by economic growth and investment in human resources. In a number of countries sustainable growth could be achieved only by the adoption of structural adjustment programmes designed to remedy macroeconomic imbalances and microeconomic distortions and by strengthening weak institutions, as was proved by the fact that current inward-looking policies impeded growth, favoured special interest groups and ignored the poor. Only growth made investment in human resources possible, and such investment constituted the second pillar of the new strategy adopted by the World Bank to combat poverty.

57. Structural adjustment was painful, especially for the poor and vulnerable groups, at least in the short run, although since the mid-1980s, the Bank and the Governments concerned had been trying to alleviate those difficulties. One example was Africa, where a programme on the social dimensions of adjustment had been introduced in 1988. Elsewhere too, the majority of adjustment programmes now included a social protection element. Adjustment remained an extremely difficult process and experience had taught the Bank and its client Governments to modify programmes in accordance with specific situations. Some countries, such as the Republic of Korea, Indonesia and Thailand, had adjusted very quickly. Those that were heavily in debt had been slower, but some of them, such as Chile, Mexico and Ghana, were picking up speed. As for the poorer countries, where structural weaknesses were considerable and the private sector virtually non-existent, the process was particularly long. In countries with faster macroeconomic adjustment, programmes were now focused on sectoral issues; moreover, efficient development management, the role of women and the environment were accorded greater importance in programmes and in the lending operations of the Bank.

Better income distribution also contributed to political stability and the sustainability of reforms. The Bank favoured targeted subsidies which were more likely to reach the poor than a general price support mechanism.

58. With regard to the role of Government, and contrary to what the Special Rapporteur had stated, the Bank did not view any State involvement in the economy as suspect, but considered that the Government and the market each had to play its part to the best of its ability. Experience showed that a competitive market was the best way of organizing the production and distribution of goods and services. The State, on the other hand, was responsible for regulating the market, investing in infrastructure and providing essential services to the poor.

59. The Bank was not concerned with the political processes of client countries and did not influence their decisions to borrow or to apply structural adjustment policies, and in any case it had been found that the full support of the country in question was the best guarantee of the success of adjustment. The Bank was essentially concerned with the effective management of the development process, with the establishment of a framework in which business in both the public and private sectors was conducted with transparency and accountability for economic and financial performance, which had to be well defined - all of which were factors that would not fail to contribute to the economic, social and cultural progress of the population as a whole.

60. Mr. ETCHART (International League for the Rights and Liberation of Peoples) said that not all the citizens of countries where two languages coexisted were always equal with regard to the right to education. Such was the case of the Basque country, an integral part of the Spanish State, which had ratified the Covenant on economic, social and cultural rights. Bilingualism was admittedly guaranteed in legal instruments, but in practice there was glaring inequality. The percentage of students at the University of Euskadi who followed the syllabus in Basque, the percentage of courses actually given in Basque and the percentage of Basque-speaking professors were very low. A plan had been proposed in 1988 to introduce genuine bilingualism, but it had remained a dead letter. The medium-term future for the University of Euskadi was bleak, for the International League for the Rights and Liberation of Peoples failed to see how the 73,000 secondary school pupils who received instruction in Basque could follow University courses adapted to the requirements of the year 2000. It noted with bitterness that considerable sums had been devoted to major cultural projects to the detriment of social and educational structures, and that the participants in the Madrid Spanish-American Summit had forgotten the idea put forward at Guadalajara to constitute a Spanish-American heritage in the area of human rights, but had confirmed the idea of guaranteeing an open world economy. It doubted that unrestrained liberalism was the solution to the poverty in which 180 million

people lived, since development in the interest of peoples should take account of their traditions and ways of life. Conscious of the impact of structural adjustment programmes on educational and social programmes, the International League for the Rights and Liberation of Peoples drew the Sub-Commission's attention to the effective realization of economic, social and cultural rights.

The meeting rose at 1.10 p.m.